



DEPARTMENT OF EDUCATION

Dr. Jennifer McCormick
Superintendent of Public Instruction

Working Together for Student Success

INDIANA
STATE ETHICS COMMISSION

April 3, 2017

APR 04 2017

FILED

Jennifer Cooper
State Ethics Director
Office of Inspector General
315 W Ohio Room 104
Indianapolis, IN 46202

Dear Jennifer:

Please see the attached Post Employment Waiver Request for Ben Kemp, signed by Dr. McCormick. The Department would like this request to be on the agenda at the April 13, 2017 Indiana Ethics Commission meeting. Please contact me if you have any further questions or concerns.

Thank You,

Marsha Bugalla
General Counsel
Indiana Department of Education

IC 4-2-6-11

Post-employment waiver

As the Appointing Authority of, Indiana Department of Education, I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Ben Kemp in his post-employment with Data Recognition Corporation.

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

- A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of
(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):

- IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.
- IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.
- IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.
- IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

- B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

Mr. Kemp's prior job responsibilities involved WIDA program implementation. The employee implemented existing policies, rules, and contracts, but was not involved in developing the policies, rules, or contracts that govern the WIDA program. (WIDA is the State's English Language Proficiency Assessment.)

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Mr. Kemp's new duties will be that of a Senior Science Assessment Specialist, developing items and forms for assessment contracts from states and school districts outside of Indiana.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

Mr. Kemp will have no contact with the Indiana Department of Education in his new position.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

The prospective employment would be beneficial to other states around the country which are engaging in assessment development activities. The experience and expertise gained while employed at the Indiana Department of Education will allow for enhanced development and support of their assessment tasks.

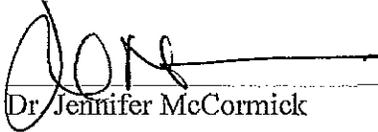
5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

Mr. Kemp would endure significant economic hardship if the request for waiver is denied. Mr. Kemp is the primary source of household income due to his wife's current full-time enrollment in an accelerated nursing school program.

C. Signatures

1. Appointing authority/state officer of agency

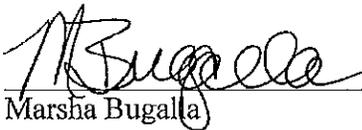
By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.


Dr. Jennifer McCormick

3/30/17
DATE

2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).

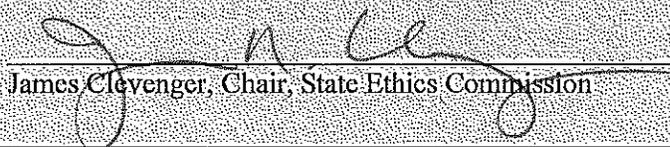

Marsha Bugalla

3-30-17
DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY

Approved by State Ethics Commission


James Clevenger, Chair, State Ethics Commission

4/13/17
Date

315 West Ohio Street, Room 104
Indianapolis, IN 46202

OR

Email scanned copy to: info@ig.in.gov

Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.